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The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GARY FLOYD ANDERSON,
PAUL BAO-LUO CHOU,
DAVID EDWARD CHZASZCZ,
and PASUMARTI VENKATA KAMESAM

MAILED

SEP 25 2003

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Appeal No. 2002-0474
Application 09/009,083¹

ON BRIEF

Before KRASS, BARRETT, and FLEMING, Administrative Patent Judges.
BARRETT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1-20.

We affirm-in-part.

¹ Application for patent filed January 20, 1998, entitled "Qualified and Targeted Lead Selection and Delivery System."

BACKGROUND

The invention relates to a computerized lead (prospect) selection and management system.

Claim 1, as submitted in the first amendment (Paper No. 5, received June 7, 2000) is reproduced below. It is not clear what the status of the claims is. The Amendment Under 37 C.F.R. § 1.116 (Paper No. 7, received October 16, 2000) and the Second Amendment Under 37 C.F.R. § 1.116 (Paper No. 11, received February 15, 2001), which proposed to cancel claims 7 and 15 and incorporate their features into claims 1 and 14, respectively, were not entered as noted in the Second Resubmission of Appellants' Brief on Appeal (Paper No. 18, received August 30, 2001), pages 2-3. The examiner's answer states that the (third) Amendment Under 37 C.F.R. § 1.116 (Paper No. 17, received August 30, 2001) was not entered, the paper in the file wrapper has a note saying "do not enter," and the statement of the rejection addresses claims 7 and 15. However, the answer notes that the correct status of the claims is (examiner's answer, page 2): "Claims 1 and 14 [have] been amended subsequent to the final rejection. Claims 7 and 14 [sic, 15] [have] been canceled." The examiner also states that the copy of the claims in the Appendix, which contain the amendments, is correct (examiner's answer, page 3). This sounds like the amendment was entered and leaves us to guess at the status. Rather than remand

- a central processing unit (CPU);

a set of functional modules to be executed by the CPU, wherein a first functional module comprises a system security capability, a second functional module comprises a lead management capability, and a third functional module comprises a lead selection capability;

CPU means responsive to an input user request comprising at least one of lead management data and lead selection parameters, the CPU means responding to said request by executing at least one of the first, second, and third functional modules for generating information comprising at least of [sic] one of a set of candidate leads and signification of a request; and

means connected to the CPU for outputting the information to an output user interface.

The examiner relies on the following reference:

Melchione et al. (Melchione) 5,930,764 July 27, 1999
(filed August 23, 1996)

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We refer to the final rejection (Paper No. 6) and the examiner's answer (Paper No. 19) (pages referred to as "EA__") for a statement of the examiner's rejection, and to the second resubmission of appellants' brief on appeal (Paper No. 18) (pages referred to as "Br__") for a statement of appellants' arguments thereagainst.

OPINION

Claims 1-13

Appellants argue (Br10):

However, the system of Melchione is not teaching or suggesting a central processing unit (CPU), as claimed by independent claim 1, but only micromarketing centers 11 with micro marketing workstations (e.g., see Fig. 1 and column 26, lines 55-59). Melchione therefore is not teaching or suggesting a user interface module connected to the CPU, means for inputting lead management data for operation upon by the CPU, means for inputting lead selection parameters for operation upon by the CPU, and a set of functional modules to be executed by the CPU.

Further, Melchione does not teach or suggest CPU means responsive to an input user request comprising at least one of lead management data and lead selection parameters, the CPU means responding to said request by executing at least of [sic] one of the first, second, and third functional modules, and means connected to the CPU for outputting the information to an output user interface.

The examiner's answer does not respond to this argument, nor does the examiner's answer refer back to another paper. Accordingly, we are left to determine whether the statement of the anticipation rejection (EA3-4) is sufficient to address the argued limitations.

It appears that appellants seriously contend that Melchione does not have a CPU. Appellants argue "the system of Melchione is not teaching or suggesting a central processing unit (CPU), as claimed by independent claim 1, but only micromarketing centers 11 with micro marketing workstations" (Br10) and "Melchione deals with a central database (e.g., see Abstract), not a CPU" (Br15). However, the central database 10 in Melchione must execute on a computer, expressly shown as a mainframe in Fig. 2 (col. 15, line 23). All computers are considered CPUs. In one sense, appellants' arguments can be interpreted to rely completely on the absence of a CPU, which is clearly erroneous. Nevertheless, we address the merits of the rejection rather than just the argument about lack of a CPU.

Melchione has at least three computers which could be considered the CPU: (1) the client workstations 12 in the micromarketing center 11 (Fig. 2); (2) the mainframe at the central database 10 (Fig. 2); and (3) computers in the central customer information system (CCIS) 13 (not shown, but inherent). The examiner evidently relies on the client workstation 12 in the micromarketing center 11 as the CPU; however, the rejection refers to a "central micromarketing system" (EA3) and we do not find the terms "central" and "system" in Melchione to describe the "micromarketing center," so the finding is not as clear as it could be. The examiner has found the various functions of

claim 1, but has not established how those functions are performed by one CPU as claimed. The problem we see with the rejection is that the functions in Melchione are distributed among the central database 10, micromarketing center 11, and the CCIS 13, and are not performed by a single CPU as claimed. The examiner has not set forth a claim interpretation which would allow for multiple CPUs to satisfy the claim language.

We think the best chance of satisfying claim 1 comes by selecting the mainframe of the central database 10 as the CPU. The program on the client workstation 12 is the "input user interface module connected to the CPU," which is consistent with appellants' disclosure (Fig. 1; specification, page 5, line 2); i.e., a workstation CPU can be "connected to the CPU" of the central database. The workstation 12 has means for searching the central database 10 for information (leads) that meets specific selection criteria (e.g., col. 26, lines 55-59; col. 27, lines 42-48), i.e., "means for inputting lead selection parameters for operation upon by the CPU." It is not clear what the examiner considers to the "[user interface module including] means for inputting lead management data for operation upon by the CPU" in the workstation since data appears to go into the central database 10 directly from feeds 21-25 (Fig. 1; col. 16, lines 16-29) or in the CCIS 13 (e.g., col. 38, lines 17-20). This is a first difference. The central database 10, which

executes on the mainframe, has a security database 30 (col 16, line 65 to col. 17, line 17) which can be considered "a first functional module comprises a system security capability" which executes on the CPU. The "third functional module comprises a lead selection capability," which retrieves prospect data per user's lead selection preferences and choices (specification, page 9), can be read on the database engine executing on the mainframe (CPU) which retrieves lead information based on the selected criteria. However, "a second function module comprises a lead management capability," which the examiner correctly reads on the lead management system (col. 37, line 62 to col. 40, line 58), is performed in the CCIS and is not "executed by the CPU," as claimed. This is a second difference. We find that mainframe of the central database 10 has program means responsive to a user request from the workstation 12 using lead selection parameters, for generating at least "a set of candidate leads." The workstations have "means connected to the CPU for outputting the information to an output user interface."

In summary, we find that Melchione does not teach "[user interface module including] means for inputting lead management data for operation upon by the CPU" and "a second function module [which] comprises a lead management capability" which is executed by the CPU (which we define to be the mainframe of the central database 10). Defining the CPU to be the workstation 12 or the

computers of the CCIS 13 results in more differences. The examiner has failed to establish a prima facie case of anticipation. The rejection of claims 1-13 is reversed.

Claims 14-20

Claims 14 and 18-20

Again, it seems that appellants are relying primarily on the lack of a CPU when Melchione clearly has CPUs. We address the merits of the rejection rather than this argument.

As a matter of claim interpretation, the "means" in claim 14 have been described in the specification as no more than functional blocks or programs run on a general purpose computer. Since no specific structure is disclosed, any structure for performing the functions will be equivalent for purposes of 35 U.S.C. § 112, sixth paragraph. Appellants' means-plus-function arguments do not set forth what structure is described or how it distinguishes over Melchione. Arguments under § 112, sixth paragraph, which leave it up to us to speculate about what appellants think the claim covers are not persuasive.

The mainframe of the central database 10 (Fig. 2; col. 15, line 23) corresponds to the "central processing unit (CPU)." The source feeds 21-25 (col. 16, lines 16-43) and the lead management system (col. 38, lines 16-19) are "means connected to the CPU for inputting lead management data." The workstations 12 in the

micromarketing center 11 have "means for inputting lead selection parameters for searching said lead management data" because users can enter criteria for searching the database to generate leads (e.g., col. 27, lines 42-48). In response to a request for leads using specified criteria, the mainframe of the central database 10 searches the database and outputs selected information to the workstation 12, which meets the limitation of "said CPU responds to a request for leads tailored to inputted selection parameters by searching said lead management data and outputting selected information to an output user interface." Of course, claim 14 does not preclude lead information sent to the workstation 12 from being sent to the CCIS 13. We find that claim 14 is anticipated by Melchione. The rejection of claim 14 is sustained. Claims 18-20 have not been separately argued and, therefore, fall with claim 14.

Claim 15-17

Claim 15 recites:

15. The lead management system as claimed in claim 14, further comprising:

means for updating and maintaining lead data from external sources; and

means for managing said lead data, said managing means comprising a lead usage mechanism for controlling a lead quantity, a lead usage time interval, and a lead availability to a selected user.

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The examiner finds that Melchione teaches a system with a lead management capability, referring to column 16, lines 30-55 (EA5).

We find that the source feeds 21-25 (col. 16, lines 16-43) meet the first limitation of "means for updating and maintaining lead data from external sources." We do not see lead management capability described at column 16. Nevertheless, in the rejection of claims 1 and 14, the examiner referred to column 37, line 65 to column 40, line 58. We agree that this teaches lead management, in general, but find that it does not teach "a lead usage mechanism for controlling a lead quantity, a lead usage time interval, and a lead availability to a selected user." Accordingly, the anticipation rejection of claim 15, and claims 16 and 17 which depend therefrom, is reversed.

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CONCLUSION


The rejection of claims 1-13 and 18-20 is reversed. The rejection of claims 14-17 is sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED-IN-PART


ERROL A. KRASS
Administrative Patent Judge


LEE E. BARRETT
Administrative Patent Judge


MICHAEL R. FLEMING
Administrative Patent Judge

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